EXPRESS MAIL No: ET416539845US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Michael Smith et al.
Serial No:	09/309,396
Title:	HOP EXTRACT OF DEFINED COMPOSITION
Filing Date:	May 7, 1999
Group Art Unit:	1761
Examiner:	Curtis E. Sherrer
Docket No:	YC1.P07

Yakima, WA 98902
March 10, 2004

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL RESPONSE TO OFFICE ACTION

Dear Sirs:

This is a supplemental response to an Office communication in regards to the above listed application. The Office communication is noted as mailed on January 14, 2004. The one month, response period for this response expired February 14, 2004. This response is timely filed within the extended response period, via U.S. Express Mail, on Wednesday, March 10, 2004, per 37 CFR §§1.7 and 1.10, with the proper extension fee included herewith. No additional fees are required with this response.

REMARKS

The Applicants gratefully appreciate the opportunity given by the Examiner to correct the perceived defect in the prior response as filed on October 9, 2003. Please consider the following supplemental response to the Office Action for the above-captioned application, in compliance with the Office communication subsequently received. The Office Action non-final rejection of the claims on new grounds, was marked as Paper No. 23, mailed on May 9, 2003.

SUPPLEMENTAL RESPONSE TO THE EXAMINER'S DETAILED ACTION

The Examiner states that the reply filed by the Applicants on October 9, 2004 was not fully responsive. Specifically, the Examiner contends that the rejection now relies on admissions by applicants, as grounds for a new rejection of the claims under 35 U.S.C. 103(a). Specifically, the remaining claims are all considered unpatentable by the Examiner, over U.S. Patent No. 4,212,895 to Laws et al., or U.S. Patent No. 4,218,491 to Laws et al., in view of the Applicants' admissions. The Applicants respectfully note that the office action of May 10, 2002, referred to as paper No. 17, also relied on mixtures of hop components "notoriously known in the art" as an additional basis for affirming a rejection of the claims on Laws et al. '895, or Laws et al. '491. This point was responded to then and will be responded to again.

The Applicants wish to further the prosecution of the present appeal. Reformulating prior rejections in adds little productive substance to the debate. However, the Applicants wish to add the following argument to the response of October 9, 2003, to be fully responsive to the Examiner's revised rejection. The Examiner cites the Applicant as admitting:

"... [T]hat the prior art has commonly modified the various amounts of alpha acids, beta acids

and oils that are added to beers."

Instead, the Applicants' Background of the Invention asserts that the manipulation of alpha acids and beta acids is an inexact practice. Specifically, on page 2, beginning a line 5; "Such a level of hop extract product control is currently unavailable."

Therefore, the Applicants respectfully disagrees with the Examiner's assessment of the Applicants' disclosure. The Examiner has misinterpreted the Applicants' specification, taking it out of context.

Again, the Examiner also asserts that: "It would have been obvious to those of ordinary skill in the art to modify these notoriously well known result effective variables, i.e., to modify the flavor of beer." However, there is nothing in the prior art of record that teaches dilution of purified hop extracts with whole hop extract to achieve a higher quality, consistent product having improved handling and storage characteristics. There is *no* motivation disclosed by either cited Laws et al. reference, coupled with the Applicants' background disclosures or the knowledge of those skilled in the pertinent arts, to combine a whole hop extract with a purified extract. Once a purified extract is obtained, conventional, common sense practice teaches away from then re-introducing such a refined product stream into a raw product stream.

CONCLUSION

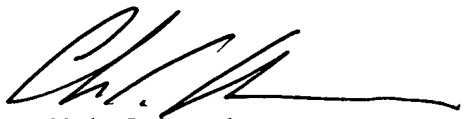
The Applicants wish to further progress the present appeal. The Applicants respectfully observe that simply retooling prior rejections adds little productive substance to the present debate on the allowability of the claims at issue. However, the Applicants have responded completely to all outstanding rejections, as detailed by the Examiner in the May 9, 2003 Office Action.

Although the May 9, 2003 office action was designated as Non-final, it follows a long fought final rejection of the claims that then was modified only slightly, to reset prosecution and provide the Examiner 'another bite at the apple.' The Applicants wish to move prosecution forward.

As stated in the Applicants' prior response of October 9, 2003, the Appellants respectfully traverse the Examiners rejections, and per MPEP § 1208.02, **request reinstatement of the appeal**. This request was properly accompanied therein, by a supplemental brief, per 37 CFR 1.193(b)(2), which was submitted in triplicate, therein.

Respectfully submitted,

STRATTON BALLEW PLLC



Chris E. Svendsen, Reg. Nº 40,193
Telephone: (509) 453-1319
Fax: (509) 433-4704

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Michael Smith et al.
Serial No:	09/309,396
Title:	HOP EXTRACT OF DEFINED COMPOSITION
Filing Date:	May 7, 1999
Group Art Unit:	1761
Examiner:	Curtis E. Sherrer
Docket No:	YC1.P07

Yakima, WA 98902
March 11, 2004

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

EXPRESS MAIL CERTIFICATE

Express Mail Label No: ET416539845US
Date of Deposit; March 11, 2004

I hereby certify that the following attached papers and/or fees:

1. **Supplemental Response to Office Action**
2. **Request for Extension of Time**
3. **Check No. 11466 for $55.00**
4. **Return Receipt Post Card**

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above, and is addressed on the Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Roxcy L. Nielsen

Roxcy L. Nielsen

Signature